IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.8.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.26322 of 2007

M/s.Sri Rama machinery Corporation Limited
rep. by Shri Sunil Jhun Jhunwala,
Director,
registered office at
No.10/41, Flat No.3, Kripa Sankari Street,
West Mambalam,
Chennai - 33 .. Petitioner

vs.

The Commercial Tax Officer,
Thiruvottiyur assessment circle,
Chennai - 19. .. Respondent

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the files of the respondent in CST.50152/92-93, dated 29.7.2005, and quash the same as being without authority of law, contrary to principles of natural justice and unjustified on facts and law and directing the respondent to pass orders afresh after check of accounts, enquiry and grant of opportunity.

For petitioner : Mr.C.Venkatraman
For respondents : Mr.R.Mahadevan
Additional Government Pleader

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O R D E R

Mr.R.Mahadevan, the learned Additional Government Pleader, takes notice for the respondent.

2. With the consent of the learned counsels appearing on either side, the writ petition itself is taken up for final disposal.

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3. It is submitted that the petitioner, which was a Private Limited Company, had been dealing in iron and steel. However, the petitioner had discontinued the business in the year 1997.

4. The only contention of the learned counsel appearing for the petitioner is that the respondent had not issued the show cause notice and the assessment order to the residential address of the Director, in accordance with the provisions of Rule 52(1)(c) of The Tamil Nadu General Sales Tax Rules, 1959, (hereinafter referred to as the Rule). Instead, the respondent had sent the notice to the last known place of business, contrary to the said Rule, and passed the impugned proceedings thereafter.

5. It is also submitted that the issue had been decided by this Court by its decision, reported in *R.DAMODAN Vs. UNION OF INDIA AND OTHERS (1993 Vol.88 STC 72)*, wherein it was held that the address of the dealer, contemplated under Rule 52(1)(c) of the Rules, is the residential address of the dealer and not last known address where the dealer was carrying on his business.

6. Mr.R.Mahadevan, the learned Additional Government Pleader, has not refuted the claims made on behalf of the petitioner.

7. In such circumstances, the impugned proceedings passed by the respondent in CST.50152/92-93, dated 29.7.2005, is quashed and the writ petition is allowed. However, it is open to the respondent to initiate appropriate proceedings by sending the notice by registered post, in accordance with Rule 52(1)(c) of The Tamil Nadu General Sales Tax Rules, 1959, on the petitioner's registered office at No.10/41, Flat No.3, Kripa Sankari Street, West Mambalam, Chennai-33, within fifteen days from the date of receipt of a copy of this order. On receipt of such notice, the petitioner is directed to submit its objections, within fifteen days from the date of receipt of the notice. Based on the objections received from the petitioner, the authority concerned is to pass appropriate orders, on merits and in accordance with law, within a period of two weeks thereafter.

The writ petition is disposed of accordingly. No costs. Consequently, connected M.P.No.1 of 2007 is closed.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To:

The Commercial Tax Officer,
Thiruvottiyur assessment circle,
Chennai - 19.

+1cc to Mr.C.Venkatraman, Advocate Sr 52962
+1cc to Spl. Govt. Pleader (Taxes) Sr 53097

MDR (CO)
km/17.9.

W.P.No.26322 of 2007

HIGH COURT OF JUDICATURE MADRAS
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